

# Agenda Item II

PROCUREMENT POLICY BOARD MEETING

December 18, 2008

1:00 pm

Conference Room 410

1151 Punchbowl Street

Honolulu, Hawaii 96813

Members Present

Pamela Torres, Chair  
Darryl Bardusch, Vice-Chair  
Russ Saito, Secretary  
Leslie Chinen, member  
Keith Matsumoto, member

Others

Aaron Fujioka, State Procurement Office  
Ruth Yamaguchi, State Procurement Office  
Justin Fo, State Procurement Office  
Kevin Takaesu, State Procurement Office  
Russell Suzuki, Office of the Attorney General  
Sharon Hurd, Department of Agriculture  
Isaac Maeda, Department of Agriculture  
Benton Ho, Department of Transportation  
Jamie Ho, Department of Transportation  
Dori Palcovich, Department of Business, Economic Development & Tourism  
Bob Shore, Department of Business, Economic Development & Tourism  
John Matassa, University of Hawaii  
Sylvia Kondo, University of Hawaii  
Laura Glenn, University of Hawaii  
Joy Gold, Joy Gold Unlimited  
Leah Kissel, Waikiki Aquarium  
Kathryn Kanemori, Honolulu Board of Water Supply  
Elizabeth Haws Connally, Alston Hunt Floyd & Ing  
Gerry Silva, Olelo Community Television

Agenda Item I - Call to Order

Chair Pamela Torres called the meeting to order at 1:01 p.m.

Agenda Item II - Minutes

Mr. Leslie Chinen made a motion, seconded by Mr. Darryl Bardusch, to approve the minutes of the September 18, 2008 meeting. The motion was unanimously carried.

Mr. Gerry Silva, Olelo Community Television presented written and oral testimony regarding agenda item V of the September 18, 2008 minutes. Olelo is still waiting for the written decision from the Procurement Policy Board regarding their petitions submitted on the public, educational and government cable broadcasting issue. Mr. Silva indicated that he would be willing to resubmit Olelo's petition to the Board. Chair Torres requested clarification on whether Mr. Silva would be submitting the same petition that was previously filed or a new petition. Mr. Silva indicated that he would be submitting the same petition and Chair Torres stated that it was not necessary.

Mr. Aaron Fujioka stated that the prior board minutes on this subject reflect that the deputy attorney general servicing the board would draft the decision. Mr. Russell Suzuki will follow up on this.

#### Agenda Item III 1)

Ms. Sharon Hurd, Department of Agriculture testified in support of the exemption number 5. Ms. Elizabeth Haws Connally, Alston Hunt Floyd & Ing commented on the testimony submitted by the Hawaii Farm Bureau adding that farmers have indicated that they have been asked to make monetary payments by agencies in order to receive contracts. Mr. John Matassa, University of Hawaii spoke in favor of the exemption number 7.

Mr. Isaac Maeda, Department of Agriculture supports exemption number 9 since he claims he was not able to do a restrictive purchase as suggested at the last meeting because the State Procurement Office denied his request, so it is not a viable alternative to this exemption.

Ms. Sylvia Kondo, University of Hawaii spoke in support of the exemption number 9 stating their need to purchase specialty foods for laboratory animals and that they are guided by federal standards. Most times, it is the researcher who decides the type of foods to purchase.

Ms. Leah Kissel, Waikiki Aquarium spoke in support of exemptions 7 and 9. USDA federal standards need to be considered when purchasing food and some animals require live food that cannot be purchased in bulk, or may have a short turnaround time.

There were no testimonies opposing these exemptions.

The Board had a lengthy discussion on the exemptions, preferences and IDIQs.

Mr. Bardusch made a motion to eliminate exemption numbers 5, 7 and 9. There was no second. The motion did not pass.

Mr. Bardusch made a motion, seconded by Mr. Russ Saito to eliminate exemption number 5. Mr. Bardusch and Mr. Saito voted in favor of the motion. Ms. Torres, Mr. Chinen and Mr. Keith Matsumoto voted against. The motion did not pass.

Mr. Bardusch made a motion, seconded by Mr. Russ Saito to eliminate exemption number 7. Mr. Bardusch and Mr. Saito voted in favor of the motion. Ms. Torres, Mr. Chinen and Mr. Keith Matsumoto voted against. The motion did not pass.

Mr. Bardusch made a motion, seconded by Mr. Russ Saito to eliminate exemption number 9. Mr. Bardusch and Mr. Saito voted in favor of the motion. Ms. Torres, Mr. Chinen and Mr. Keith Matsumoto voted against. The motion did not pass.

#### Agenda Item III 2)

Ms. Laura Glenn, University of Hawaii testified that the University is requesting that exemption number 1 be amended to add scholarly journals. Specifically, the purchasing of print space in scholarly journals to print an article.

Mr. Bardusch made a motion, seconded by Mr. Saito to amend exemption number 1 by adding at the end of the sentence "and costs associated with publication of articles in scholarly journals." Ms. Torres, Mr. Bardusch, Mr. Saito and Mr. Chinen voted in favor of the motion. There were no votes against the motion and Mr. Matsumoto abstained. The motion was carried.

#### Agenda Item IV

Mr. Bob Shore and Ms. Dori Palcovich, Department of Business, Economic Development & Tourism explained that the SBUC reviewed 7 areas for set-asides and subcontracting, Architectural, Landscaping, Engineering, Drafting, Industrial as well as the recommended, custom computer programming and alternate energy.

Chair Torres felt that preference should be given to struggling industries as opposed to those meeting or exceeding expectation. Mr. Shore replied that the purpose was to help support industries to accelerate growth for economic development.

Mr. Matsumoto stated that there already is a preference for computer software development and was not sure how this would further help the industry.

The discussion continued regarding alternate energy and that Table 6 of the DBEDT memo dated October 8, 2008 was missing.

Mr. Saito made a motion, seconded by Mr. Chinen to approve custom computer programming/software development as a set-aside and/or subcontracting program. Mr. Bardusch, Mr. Saito, Mr. Chinen and Mr. Matsumoto voted in favor. Chair Torres voted against. The motion was carried.

Mr. Saito made a motion, seconded by Mr. Bardusch to defer alternate/renewable energy industry sectors for set-asides and/or subcontracting. The motion was unanimously carried.

#### Agenda Item V

Mr. Saito requested deferment of this agenda item. He stated that in October 2008, Mr. Terry Thomason, Alston Hunt Floyd & Ing made a presentation at the Hawaii Procurement Institute Conference and that he would like that same presentation done for the Board.

Mr. Saito made a motion, seconded by Mr. Bardusch to defer agenda item V and replace this with a presentation on ID/IQ by Mr. Terry Thomason. The motion was unanimously carried.

#### Agenda Item VI

Mr. Fujioka stated that this item was placed on the agenda as a means of transmitting and disclosing the communications.

Chair Torres requested that Agenda Item VIII be taken out of order.

#### Agenda Item VIII.

Chair Torres disclosed to the Board that she is now a full-time employee of Hawaiian Telcom and that she will recuse herself if any items come before the Board regarding Hawaiian Telcom.

Mr. Fujioka stated that the next board meeting is tentatively scheduled for Thursday, January 15, 2009 at 1:00 pm.

#### Agenda Item VII

Mr. Bardusch made a motion, seconded by Mr. Matsumoto to move into executive session to consult with the Board's attorney on issues pertaining to the Board's powers, duties and liabilities. The motion was unanimously carried.

The board went into executive session pursuant to HRS § 92-5(a)(4) to consult with the Board's attorney at 3:20 pm.

Chair Torres called the meeting back to order at 3:38 pm.

#### Agenda Item IX

Mr. Chinen made a motion, seconded by Mr. Bardusch, to adjourn the meeting. The motion was unanimously carried. The meeting was adjourned at 3:39 p.m.

Respectfully submitted,

1/8/09  
Date

Russ K. Saito  
RUSS K. SAITO, Secretary  
Procurement Policy Board

Attachment: December 18, 2008 Agenda

**PROCUREMENT POLICY BOARD**  
1151 Punchbowl Street, Conference Room 410  
Honolulu, Hawaii 96813

Regular Meeting  
December 18, 2008  
1:00 pm

AGENDA

- I. Call to Order.
- II. Approval of Minutes – Meeting of September 18, 2008.
- III. HAR Chapter 3-120 Exhibit A – Procurements Exempt from HRS Chapter 103D.
  - 1) Reconsideration of Exhibit A Exemption Nos. 5, 7 and 9 as requested by the Board; and
  - 2) Request to amend Exhibit A Exemption No. 1 as requested by the University of Hawaii.
- IV. Small Business Utilization Council’s Memo to the Procurement Policy Board regarding Justification for Recommended Set-Asides and Subcontracting dated October 8, 2008.
- V. Request by Member Russ Saito:
  - 1) Discussion of IDIQ contract solicitations;
  - 2) Discussion of cooperative purchasing agreements; and
  - 3) Discussion of IDIQ multiple award verses Qualified Vendor list solicitations.
- VI. H.C.R. 358, H.D. 1/2008 Task Force (Task Force)
  - 1) Task Force letter dated September 30, 2008 to Department of Commerce and Consumer Affairs (DCCA); and
  - 2) DCCA’s reply dated October 8, 2008 to the Task Force.
- VII. Executive Session to consult with the Board’s attorney on issues pertaining to the Board’s powers, duties and liabilities.
- VIII. Announcements.
- IX. Adjournment.

Agenda may be viewed at [www.spo.hawaii.gov/procurement-policy-board-minutes-of-meeting](http://www.spo.hawaii.gov/procurement-policy-board-minutes-of-meeting). Individuals may present testimony on matters on the Procurement Policy Board's agenda when the agenda item is being discussed by the Board. Individuals intending to testify should contact the State Procurement Office at (808) 587-4700 at least 48 hours before the scheduled meeting. Written testimonies will be accepted through e-mail at [procurement.policy.board@hawaii.gov](mailto:procurement.policy.board@hawaii.gov) or faxed to (808) 587-4703 until 1:00 pm, December 16, 2008. Testimonies received after the December 16, 2008 deadline will be forwarded to the board after the December 18, 2008 meeting. Individuals submitting written testimony at the meeting and would like the written testimony distributed to the board at this meeting, are requested to provide 12 copies.

Individuals requiring special assistance or services may call (808) 587-4700 by 1:00 p.m., December 15, 2008 to discuss accommodation arrangements.